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14 ROWLAND MARCUS ANDRADE

15 **UNITED STATES DISTRICT COURT**

16 **NORTHERN DISTRICT OF CALIFORNIA**

17 **SAN FRANCISCO DIVISION**

18 UNITED STATES OF AMERICA

Case No. 3:20-cr-00249-RS-LBx

19 Plaintiff,

DEFENDANT MARCUS ANDRADE'S

20 v.

RESPONSE TO THE UNITED STATES'

21 ROWLAND MARCUS ANDRADE

MOTION TO SET CIPA PRETRIAL

22 Defendant.

**CONFERENCE AND DESIGNATE
CLASSIFIED INFORMATION SECURITY
OFFICER**

23 Date: August 7, 2024

24 Time: 2:30 am

25 Judge: Hon. Richard Seeborg

1 Mr. Andrade has no objection to the government's proposed order (Dkt. #322) but adds
 2 two notes for the court's consideration as the CIPA process moves forward.

3 First, a note about scheduling. Mr. Andrade appreciates the Court's interest in getting
 4 this case to trial, and would like to retain the February 10, 2025 trial date. When he first made
 5 discovery requests relating to Mr. Abramoff's international conduct relating to Mr. Andrade's
 6 cryptocurrency, Mr. Andrade offered on November 1, 2022 to comply with CIPA and invited the
 7 government to initiate the procedure if it determined that classified documents were implicated
 8 by his requests.¹ By waiting over 18 months to determine that sensitive materials are potentially
 9 discoverable and to initiate the often-lengthy CIPA process – which includes, if appropriate, the
 10 time required for defense counsel to obtain security clearances² – the government has risked
 11 circumscribing preparation necessary to provide an effective defense. Needless to say, trial on
 12 the earlier-scheduled date next month would have been a non-starter.

13 Second, the government's 18-page request for an unobjectionable order (which could
 14 have been accomplished by stipulation had it been preceded by a request to meet-and-confer) is
 15 preceded by 16 pages of characterizations about the CIPA process, some of which are in conflict
 16 with Mr. Andrade's constitutional, statutory and/or rule-based protections. Rather than brief
 17 here all the potential issues with those characterizations,³ some or all of which may not arise in
 18 practice and none of which change the relief requested in the proposed order, Mr. Andrade notes

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20 ¹ Mr. Andrade first submitted such discovery requests on March 7, 2022 and July 15, 2022. On November 1, 2022,
 21 Mr. Andrade's counsel agreed in an email to comply with CIPA if any of the documents the government was
 22 obligated to produce were determined to be classified. Similarly, in March 2023, Mr. Andrade wrote that "Mr.
 23 Andrade and his counsel are prepared to comply with the applicable CIPA procedures, which do not detract from the
 24 substantive rights of Mr. Andrade and his legal team or the discovery obligations of the government." Andrade's
 25 Supp. Brief iso Motion to Compel, Dkt. #153 at 11:18-22, fn 17 (Mar. 15, 2023). The government did not respond to
 26 Mr. Andrade's offers to comply with CIPA. On April 7, 2023, Judge Beeler granted Mr. Andrade's motion to
 27 compel, ordering the government to produce documents and devices relating to co-schemer Jack Abramoff, his
 28 fellow miscreant and political operative Paul Erickson, convicted Russian unregistered foreign agent Maria Butina,
 and Ukrainian pro-Russian Alexander Levin. Discovery Order (Dkt. #165) (Apr. 7, 2023).

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25 ² Although Mr. Shepard and Ms. Dent once had security clearances, they would need to be renewed. Other members
 26 of the defense team also may need to obtain security clearances. Mr. Andrade reserves his right to request additional
 27 time to prepare for trial if the CIPA process impinges on his counsel's ability to adequately prepare for trial.

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27 ³ See, e.g., Government's CIPA Motion at 16:23-24 to 17:1-3 (Dkt. # 322) (government asserts that the "type of
 28 information at issue, the amount of information at issue, the period of time when such information was collected,
 which agencies are involved, etc." should be provided *ex parte*).

1 his disagreement and will address them with the Court when and if they arise, in the event that
2 the parties are unable to reach agreement.

3

4 Respectfully submitted,

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6 DATED: July 25, 2024

KING & SPALDING LLP

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By: /s/ Michael J. Shepard

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11 ROWLAND MARCUS ANDRADE

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